

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LUKE J. SULLIVAN, III, individually)	
and on behalf of all others similarly)	
situated,)	Civil Action No. 16-203
)	
Plaintiff,)	
)	United States District Judge
v.)	Mark R. Hornak
)	
ALLIED INTERSTATE, LLC, and)	
JOHN DOES 1-25,)	United States Magistrate Judge
)	Cynthia Reed Eddy
Defendants.)	

MEMORANDUM OPINION

Mark R. Hornak, United States District Judge

On February 24, 2016, the above captioned case was filed in this Court and was referred to a United States Magistrate Judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules of Court for Magistrate Judges. On March 22, 2016, Plaintiff filed an Amended Complaint. (ECF No. 2). On May 3, 2016, Defendant filed the pending Motion for Judgment on the Pleadings (ECF No. 4) and supporting brief (ECF No. 5), notwithstanding that it had not yet filed an Answer to the Amended Complaint. The motion has been fully briefed by the parties. (ECF Nos. 5, 7, 8, 11).

On October 18, 2016, Magistrate Judge Cynthia Reed Eddy issued a Report and Recommendation (ECF No. 16) in which she construed the pending motion as a Motion to Dismiss under Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil procedure. Relevant here, the R&R recommended that Defendant's motion to dismiss for failure to state a claim be granted and that the Amended Complaint be dismissed with prejudice.¹

¹ The R&R also addressed Defendant's argument that the Amended Complaint fails to adequately

Plaintiff filed objections to the R&R on November 1, 2016 (ECF No. 18), to which Defendant filed a response in opposition on December 7, 2016, (ECF No. 19).

In resolving a party's objections, the Court conducts a *de novo* review of any part of the R&R that has been properly objected to. Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1). The Court may accept, reject, or modify the recommended disposition, as well as receive further evidence or return the matter to the magistrate judge with instructions. *Id.* Upon careful *de novo* review of the pleadings and documents in this case, together with the R&R, objections and response in opposition thereto, the Court concludes that the objections do not undermine the R&R's recommended disposition. Therefore, the Court will overrule Plaintiff's objections and adopt the R&R as the opinion of the Court.

An appropriate Order will issue.



Mark R. Hornak
United States District Judge

cc: all ECF registered counsel

allege a "concrete" injury for purposes of Article III standing, in light of the Supreme Court's recent decisions in *Spokeo, Inc. v. Robins*, __ U.S. __, 136 S. Ct. 1540 (May 16, 2016). The R&R rejected this argument, and no party has objected to this determination.